

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

LEEANN M. SIMMERMAN

Defendant.

Case No. 14-cr-40008-JPG

**MEMORANDUM AND ORDER**

This matter comes before the Court on a letter the Court received on April 11, 2017, from defendant Leeann M. Simmerman asking if she is eligible for a reduction in sentence (Doc. 478). The Court construes the letter as a motion for a reduction of her criminal sentence pursuant to 18 U.S.C. § 3582(c)(2) and United States Sentencing Guidelines Manual (“U.S.S.G.”) § 1B1.10 based on U.S.S.G. Amendment 794 (mitigating role) and a proposed guideline amendment (first offender).

Amendment 794, effective on November 1, 2015, provides additional guidance in application of the mitigating role guideline, U.S.S.G. § 3B1.2. Although Amendment 794 has been held to be retroactive on direct appeal, *United States v. Quintero-Leyva*, 823 F.3d. 519, 524 (9th Cir. 2016), it is not retroactive for the purposes of 18 U.S.C. § 3582(c)(2). *See* U.S.S.G. § 1B1.10(d)(listing retroactive amendments). The defendant has not cited to any controlling case law holding that Amendment 794 applies retroactively in her situation, that is, where she has exhausted her direct appeal.

The proposed guideline amendment relating to first offenders has not yet been enacted, although it is contained in the amendments proposed to take effect in November 2017. *See* 81 Fed. Reg. 92003 (Dec. 19, 2016). At this point, it is not effective. If it becomes effective and the

Sentencing Commission makes it retroactive, Simmerman may seek a reduction at that time, although in light of her prior convictions it is doubtful the amendment would provide her any relief.

For these reasons, the Court **DENIES** Simmerman's motion for a sentence reduction (Doc. 478).

**IT IS SO ORDERED.**

**DATED: May 8, 2017**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**